IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.460 OF 2006

M/s.Tara Constructions .. Petitioner.
Vs.
Vithoba Shankar Bhidawe
& Anr. .. Respondents.

Ms.Leena Patil for the petitioner.
Mrs.M.M.Deshmukh A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 6TH JULY, 2006

P.C.:

. Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. The petitioner in this petition impugns the judgment and order dated 30.12.2005 passed by the Additional Sessions Judge dismissing the revision filed by the petitioner-accused challenging the order of issue process in the complaint filed by the respondent-complainant under section 138 of the Negotiable Instruments Act. Before the revisional court the only contention advanced was that the complaint was barred by the limitation. That was considered by the revisional court in the light of all relevant dates and rejected the said contention. Before me it was argued that the complaint was barred

by limitation keeping in view the first notice issued by the complainant and not the second notice. In support of this submission reliance was placed on **Prem Chand Vijay Kumar Vs. Yashpal Singh and Anr. (2005) 4 SCC 417**. I perused the notice and other material placed before me. It appears that after the cheque was returned, the complainant was requested by the accused to present it again since he was to arrange the funds for its encashment and, therefore, the complainant presented it once again and since it was dishonoured he issued demand notice. It is also not clear from the averments whether the first notice was demand notice as contemplated under section 138 of the Act or it was just a request made to the accused to arrange funds before presenting the cheque for encashment. In the circumstances the judgment relied upon by the learned counsel for the petitioner would not help the petitioner. The impugned order cannot be faulted. The petition is, accordingly, dismissed.

(D.B.Bhosale, J.)